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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application of Randall et al.

Art Unit 1645

Serial No. 09/685,296

Filed October 10, 2000

Confirmation No. 4557

For USE OF DNA ENCODING PLASTID PYRUVATE DEHYDROGENASE AND
BRANCHED CHAIN OXOACID DEHYDROGENASE COMPONENTS TO
ENHANCE POLYHYDROXYALKANOATE BIOSYNTHESIS IN PLANTS

Examiner R. Kallis

June 24, 2002

RESPONSE TO RESTRICTION REQUIREMENT

TO THE COMMISSIONER OF PATENTS AND TRADEMARKS

Sir:

In response to the Office action dated April 22, 2002, Applicants respectfully traverse the restriction requirement and respectfully request reconsideration under 37 C.F.R. § 1.111 of the restriction requirement and examination of the application on the merits in view of the response as set forth herein.

The Office action sets forth a restriction requirement to the following groups of claims:

Group I, claims 4, 8, 12, 16, 20, 28, and 44 drawn to polypeptides.

Group II, claims 21-24 drawn to a particular DNA molecule, vector, and host cell.

Group III, claims 29 and 30 drawn to a plant with a plastid comprising particular polypeptides.

Group IV, claims 31-33 drawn to a plant with a plastid comprising particular polypeptides, a genome comprising particular DNAs, and a method of producing copolymers comprising growing the plant of these claims.

Group V, claims 34 and 35 drawn to a plant with a plastid comprising particular polypeptides.

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Group VI, claims 36-38 drawn to a plant with a plastid comprising particular polypeptides, a genome comprising particular DNAs, and a method of producing copolymers comprising growing the plant of these claims.

Group VII, claims 39 and 40 drawn to a plant with a plastid comprising particular polypeptides.

Group VIII, claims 41-43 drawn to a plant with a plastid comprising particular polypeptides, a genome comprising particular DNAs, and a method of producing copolymers comprising growing the plant of these claims.

Applicants hereby elect Group III claims 29 and 30, with traverse, for examination in the present application. However, Applicants respectfully request examination of the elected Group III claims, as well as, the non-elected Groups I, II, and IV-VIII claims. Although the Office states that these are distinct inventions, the search and examination of these claims can be made without additional burden on the Examiner.

Specifically, MPEP § 803 states that "[i]f the search and examination of an entire application can be made without serious burden, the Examiner **must** examine it on the merits, even though it includes claims to distinct or independent inventions" (emphasis added). No showing has been made by the Office that the search and examination of this entire application, or at least something less than the eight cited groups, will exact a serious burden upon the Office. Additionally, Applicants assert that a search of the Groups as defined by the Office will involve substantially overlapping searches.

The claims of this application are related in that they involve a DNA sequence and polypeptide sequences encoding proteins involved in the enhancement of polyhydroxyalkanoate biosynthesis in plants, plants with plastids that comprise particular polypeptides that enhance polyhydroxyalkanoate biosynthesis, and methods of producing a particular polyhydroxyalkanoate. Specifically, the DNA and polypeptide sequences are related in that the DNA sequence of claim 21 of Group II encodes the polypeptide of claim 20 of Group I. Furthermore, certain peptides of the claims of

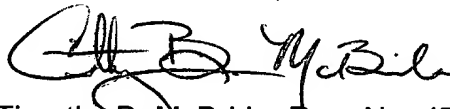
Group I can be used in the various plants of Groups III-VIII as claimed. Moreover, a search of the claims of Group VI would necessarily overlap with a search of the claims of Group IV. Therefore, while the inventions defined in these Groups may be distinct, examination of the claims of Groups I-VIII would not, in the instant case, present a serious burden on the Office.

Subject to the foregoing, Applicants hereby elect to prosecute claims 29 and 30 of Group III. Applicants make such an election without prejudice to the patentability of the non-elected claims, and expressly reserve the right to file a divisional application directed to these claims.

In view of the above, Applicants respectfully request favorable reconsideration of the restriction requirement.

Applicants note that no shortened statutory period for response was indicated in the restriction requirement. Therefore, it is Applicants' position that this reply is timely, having been mailed prior to the end of the six month period for response. Furthermore, it is Applicants position that no extension fee is due, as no shortened statutory period was indicated. Nonetheless, should Applicants' position be incorrect, the Commissioner is hereby authorized to charge any underpayment to Deposit Account No. 19-1345.

Respectfully submitted,



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